



VIOLENCE OR POVERTY

SOCIAL SECURITY REFORM IS KEY

Every person affected by family and domestic violence should be able to access adequate financial support to leave an abusive situation and rebuild their life in a safe home. Especially for those not currently in the paid workforce, as a result of the violence or caring for children, economic security in the form of social security income support is key.

To ensure that essential social security reform remains a priority over the next decade:

**WE CALL ON THE GOVERNMENT TO ENSURE THAT
SOCIAL SECURITY IS EMBEDDED IN THE NEW NATIONAL PLAN
TO END VIOLENCE AGAINST WOMEN AND CHILDREN**

Modest reforms to the social security system have the potential to greatly improve the lives of many victim/survivors of violence, particularly those who are most vulnerable, increasing their capacity to escape abuse and its ongoing effects.

Recommendations for changing the law in first action plan

The following recommendations for changes to legislation are in line with the economic security aims of the National Plan and, if implemented, could constitute immediate and concrete achievements against any new measurable social security-related targets included in the first action plan - at minimal or no cost.

1. Discretion to treat someone as not being a member of a couple in section 24

Some victim/survivors find themselves in desperate circumstances when their abusive partner provides no financial support, which can also affect their capacity to leave. Others are left with large debts when Centrelink retrospectively decides they were a member of a couple during a violent relationship where their partner provided no financial support. Frequently, those victim/survivors have had sole responsibility for the financial support of their children throughout the relationship and beyond.

Section 24 of the Social Security Act 1991 (Cth) allows some discretion for a person in a relationship to be treated as though they are not a member of a couple for social security purposes. That enables a person to access a single rate of payment despite being in a relationship, with their rate of payment unaffected by their partner's income.

Recommendation: Amend section 24 to make it clear that family or domestic violence may be considered grounds for a decision that a person in a relationship should not be treated as a member of a couple.

(Option 1) After subsection 2, Insert: For the purposes of subsection (1)(c), 1A(c), and 2(d), the Secretary must take into account the existence of family or domestic violence.

OR

(Option 2) After subsection 2, Insert: For the purposes of subsection (1)(c), 1A(c), and 2(d), a special reason exists where the Secretary is satisfied that the person is or has been subjected to family or domestic violence by the other person that limits their access to shared financial resources.

2. Special circumstances debt waiver s1237AAD (Social Security Act 1991) and s101 (A New Tax System Family Assistance (Administration) Act 1999)

Victim/survivors are sometimes forced or coerced into making statements regarding their own or their partner's circumstances in order to obtain independent income from Centrelink. Those victim/survivors can be left with a substantial Centrelink debt, and may be prosecuted, including where the income support was their only source of income or where their partner stole the income the person was receiving from Centrelink.

Section 1237AAD of the Social Security Act allows for debts to be waived in special circumstances. However, that option is not available if the debtor has knowingly made a false or misleading statement or knowingly failed to comply with an obligation under social security law. That provision results in victim/survivors being held liable for debts accrued as a result of physical violence or threats of violence by the perpetrator, including where the perpetrator refused to financially support the victim/survivor or their children in any way.

Further, section 1237AAD does not apply where the false statement or omission was made by the victim/survivor or another person. This means that a false statement or misrepresentation etc, to Centrelink by a violent and controlling partner precludes any recourse for the victim/survivor to have the debt waived under the section 1237AAD.

Recommendation: Amend section 1237AAD to ensure that a false statement or misrepresentation, etc, made as a result of coercion or duress by a perpetrator does not preclude access to the special circumstances provisions of the Act.

Insert a new subsection 2:

(a) For the purposes of subsection (1), "knowingly" does not include a false statement or false representation or failure or omission to comply with a provision of this Act, the Administration act or the 1947 Act, if the false statement or false representation or failure or omission to comply is a result of coercion or duress by another person.

Recommendation: Amend section 1237AAD to ensure that access to the special circumstances provisions is not precluded by conduct that is not authorised by the debtor: for example, where a perpetrator, without a person's knowledge or consent, lies to Centrelink.

Insert in the new subsection 2:

(b) For the purposes of subsection (1)(a)(i) and (1)(a)(ii), "another person" is limited to a person whose statements, representations, acts or omissions, are authorised (whether formally or informally) by the debtor in circumstances free of coercion or duress.

The effect of the above amendments to the Social Security Act 1991, should be replicated in section 101 of A New Tax System (Family Assistance)(Administration) Act 1999.

3. Crisis Payment s1061JH (Social Security Act)

The provisions governing Crisis Payment require that a victim/survivor of family and domestic violence must permanently leave their home before they are able to access Crisis Payment. Further, in order to qualify, the victim/survivor must meet very short time frames –the claim must be made within 7 days of deciding they cannot return (which is frequently decided by Centrelink to be the day of the domestic violence incident).

These provisions leave some victims/survivors in crisis without access to social security support. Victim/survivors are often not able to lodge a claim for Crisis Payment within 7 days, particularly where it includes filling out forms while struggling to find alternative accommodation, sometimes in hiding, which may also involve other complexities to do with relocation (travel arrangements, moving arrangements, changing children's schools) as well as medical appointment and police interviews. They may also not have access to their online account.

Further, some victim/survivors are denied payment despite already being in vulnerable circumstances because they are fleeing substandard or temporary accommodation, including refugees, where a perpetrator's continued harassment has forced them to move again. Current provisions are also used to deny Crisis Payment to victim/survivors who disclose that they hope to one day be able to return to their home if they manage to get the perpetrator to leave.

Recommendation: Extend s1061JH to remove the requirement that a person has or intends to establish a new home given subsections (a) and (b) already require a finding that a person cannot return to their home and it is unreasonable to expect them to do so.

Repeal subsection (1)(c)(the requirement that the person has established, or intends to establish, a new home).

After subsection (2), insert:

(3) For the purpose of subsection (1)(a) and (1)(b), "home" is not limited to fixed, permanent or long-term accommodation.

Recommendation: Amend s1061JH

Amend subsection (e):

(1)(e) the person makes a claim for a crisis payment within 14 days after the extreme circumstance occurred.